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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/720,892

Applicant(s)

HODGES ET AL.

Examiner

FREDA A. NELSON

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on September 26, 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-12 is/are pending in the application.
- 4a) Of the above claim(s) 16-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

The amendment received on September 26, 2008 is acknowledged and entered.

Claims 12, 15, and 23 have been amended. Claim 1 has been canceled. Claims 13-14 and 16-22 have been withdrawn. 2-22 are currently pending.

Response to Amendments and Arguments

1. Applicant's arguments filed September 19, 2008 have been fully considered but they are not persuasive.
2. In response to Applicant's argument that Tiedemann, Patel, Guilford, Kowarsch, and Greene do not obviate independent claims 12, 15, and 23 because no where, for example, do Tiedemann, Patel, Guilford, Kowarsch, and Greene teach, suggest, or even contemplate "determining a subcontracted processing service is" required from a different service provider" and "subcontracting the new segment to the different service provider to receive the subcontracted processing service", the Examiner asserts that it appears that the steps "determining a subcontracted processing service is required from a different service provider; grouping together individual packets of data that require the subcontracted processing service as a new segment; subcontracting the new segment to the different service provider to receive the subcontracted processing service; and receiving a subcontracted result of the subcontracted processing service" are not necessary because in the previous step, the request for fulfilling the communications service has been declined. Therefore, it is not clear how any person skilled in the art is enabled to make or use the invention.

Examiner's Note

3. With respect to the Official Notice taken in the previous office action, Examiner notes the following discussion of Official Notice taken from the MPEP:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.1 I I(b). See also Chevenard, 139 F.2dat 713, 60 USPQ at 241 ("[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention."). A general allegation that the claims define a patentable invention without any reference to the examiner's assertion of official notice would be inadequate. If applicant adequately traverses the examiner's assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also Zurko, 258 F.3dat 1386, 59 USPQ2d at 1697 ("[T]he Board [or examiner] must point to some concrete evidence in the record in support of these findings" to satisfy the substantial evidence test). If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2). If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate. (MPEP § 2144.03(C))

Applicant has not "specifically pointed out the supposed errors in the Examiner's

action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art." For these reasons, the limitations for which Official Notice was taken in claims 4, 9, and 14 are considered to be admitted prior art because Applicant has not proffered an adequate traversal.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 2-12, 15 and 23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

It appears that the steps "determining a subcontracted processing service is required from a different service provider; grouping together individual packets of data that require the subcontracted processing service as a new segment; subcontracting the new segment to the different service provider to receive the subcontracted processing service; and receiving a subcontracted result of the subcontracted processing service" are not necessary because in the previous step, the request for fulfilling the communications service has been declined. Therefore, it is not clear how any person skilled in the art is enabled to make or use the invention.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 2-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 2-12 are directed to a series of steps. In order for a series of steps to be considered a proper process under § 101, a claimed process must either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). Thus, to qualify as patent eligible, these processes must positively recite the other statutory class to which it is tied (e.g., by identifying the apparatus that accomplishes the method steps), or positively recite the subject matter that is being transformed (e.g., by identifying the product or material that is changed to a different state). Claims 2-12 identify neither the apparatus performing the recited steps nor any transformation of underlying materials, and accordingly are directed to non-statutory subject matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5-12, 15, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tiedemann, Jr. et al (US Patent Number 5,862,471), in view of Patel et al. (US Patent Number 7,043,225), still in further view of Guilford et al. (US PG Pub. 2002/0087674); still further in view of Kowarsch (US PG Pub. 2004/0132449); and still in further view of "Sample Selection in credit-scoring models" hereinafter referred to as "Greene."

7. **As per claim 10-12, 15, and 23**, Tiedemann, Jr. et al. disclose a method, computer program product, and system for providing communications services, comprising the steps of:

 sending a request for communications service, the request for communications service originating from a user's client device, the request for communications service communicating via a communications network to a service provider (abstract); and

 negotiating, at the user's client device, with other service providers of other communications networks to fulfill the request for communications service (abstract).

Tiedemann, Jr. does not expressly disclose linearly predicting whether the user will pay on-time and in-full for the requested communications service based on a determination whether the user timely paid in-full for previous communications services; if a determination is made that the user will. pay on-time and in-full for the requested communications service, then negotiating, at the user's client device, with other service

providers of other communications networks to fulfill the request for communications service; and accessing a segmentation profile containing user preferences for presenting billing charges from the other service providers of the other communications networks; and if a determination is made that the user will not pay on-time and in-full for the requested communications service, then declining to fulfill the request for the communications service.

However Patel et al. discloses Internet gateway for brokering and negotiating wireless transmission resources between users and service providers. In particular, a web site is provided at which consumers may specify a location, time, bandwidth, type of service and/or pricing of desired services and submit request for services. In this way, consumers may easily request and negotiate with network providers, service providers and bandwidth brokers for wireless services (col. 2, line 53-col. 3, lines 7).

Guilford et al. disclose the wireless device using a table such as a routing table when in its home service area and in this aspect of the invention, the table downloaded to the wireless device includes various services within the home service provider portfolio of platforms offered and services offered by different network service providers operating within the same footprint as the home service provider (paragraphs [0022]-[0023], FIGS 7B). Guilford et al. do not expressly disclose that the segmentation profile contains preferences for presenting billing charges from another service provider of another communications network; communicating a single billing statement from a single service provider, the single billing statement aggregating billing charges between the other service providers of the other communications networks; and billing a credit

card for the aggregated charges. However, the Examiner takes Official Notice that it is old and well known in the business art to provide users of communications services the flexibility of selecting a billing preference, such as, credit card/debit card or billing. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Tiedemann, Jr. et. al. and Guilford et al. to include the feature of billing preferences to provide the users with the convenience of selecting how they want to be billed.

Kowarsch discloses home networks usually have more stringent credit requirements for allowing a user to enable roaming and the home network may carry out a credit check and may ask the user to pay a deposit; and in some circumstances home networks will only allow a mobile phone to roam if additional arrangements are in place to settle charges incurred in the visited network. This may require the owner of the mobile phone to supply the home network with the authority to charge their credit card directly before they will enable the roaming facility. Thus, unless a user has made prior arrangements with their home network to enable the roaming facility they may not be able to roam in a visited network ([0007]).

Greene discloses The most common technique used for credit scoring is linear discriminant analysis which rests on the assumption that there are two populations of individuals, which we denote as '1' and "0", each characterized by a multivariate distribution of a set of attributes, x , including such factors as age, income, family size, credit history, occupation, and so on (page 302, 2nd ¶).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Tiedemann, Jr. et al., Patel et al., Guilford et al., Kowarsch, and Greene in order to provide service providers the ability to provide communication services based on credit-worthiness to reduce risk of loss.

8. **As per claim 5**, Tiedemann, Jr. et al. discloses a method according to claim 1, further comprising the step of billing the user for the communications service (col. 2, lines 46-49) .

9. **As per claims 6-8**, Tiedemann, Jr. et al. discloses a method according to claim 1, further comprising the step of aggregating billing charges between the other service providers of the other communications networks (col. 2, lines 46-49).

10. **As per claim 9**, Tiedemann, Jr. et al. discloses a method according to claim 1, further comprising the step of providing the requested communications service (col. 2, lines 28-33).

11. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tiedemann, Jr. et al (US Patent Number 5,862,471), in view of Patel et al. (US Patent Number 7,043,225), still in further view of Daniels (US Patent Number 6,058,301); still in

further view of "Sample Selection in credit-scoring models" hereinafter referred to as "Greene."

12. **As per claim 2**, Tiedemann, Jr. et al. do not disclose a method according to claim 12, further comprising the step of extending trust-based credit to the user based on an algorithm in which the user's historical payment information, the user's historical usage information, and the user's credit card information are variables.

However, Daniels discloses that still other subscribers may be frequent roamers with an established credit history and thus can be allowed to roam everywhere in North America, without the need for additional authentication. Less frequent roaming subscribers may be allowed to roam in specific service areas across North America (col. 5, lines 2-7).

Greene discloses The most common technique used for credit scoring is linear discriminant analysis which rests on the assumption that there are two populations of individuals, which we denote as '1' and "0", each characterized by a multivariate distribution of a set of attributes, x , including such factors as age, income, family size, credit history, occupation, and so on (page 302, 2nd ¶).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Tiedemann, Jr. et. al to include the feature of Daniels and Greene in order to reduce the credit risk for the providers based on analysis of credit-worthiness of customers.

13. **As per claims 3-4**, Tiedemann et al. do not disclose a method according to claim 2, wherein the step of extending trust-based credit to the user comprises linearly

predicting the user will pay for the requested communications service based upon at least one of the user's payment history, the user's usage history, and the user's credit history.

However, Daniels discloses that still other subscribers may be frequent roamers with an established credit history and thus can be allowed to roam everywhere in North America, without the need for additional authentication. Less frequent roaming subscribers may be allowed to roam in specific service areas across North America (col. 5, lines 2-7).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Tiedemann, Jr. et. al to include the feature of Daniels in order to reduce the credit risk for the providers.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freda A. Nelson whose telephone number is (571) 272-7076. The examiner can normally be reached on Monday -Wednesday and Friday, 10:00 AM -6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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/F. A. N./
Examiner, Art Unit 3628

/John W Hayes/
Supervisory Patent Examiner, Art Unit 3628